

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
SYRACUSE DIVISION**

ANTHONY GRIFFIN, MARK MCINDOO, and SUZANNE DETOMASO, on behalf of themselves and all others similarly situated,)	
)	
)	Civil Action No.: 5:16-cv-354
)	(LEK/ATB)
Plaintiffs,)	
)	
v.)	DECLARATION OF FRANK S.
)	GATTUSO IN SUPPORT OF
)	MOTION FOR FINAL APPROVAL
)	OF SETTLEMENT AND AWARD OF
ALDI, INC., DOE DEFENDANTS 1-10,)	ATTORNEYS' FEES AND
)	EXPENSES
Defendants.)	

I, Frank S. Gattuso, declare as follows:

1. I am a member of the law firm of Gattuso & Cioitoli, P.L.L.C. I submit this declaration in support of Plaintiffs' Counsel application for an award of attorneys' fees in connection with services rendered in this case, as well as the reimbursement of expenses incurred by me in connection with this collective class action litigation. I have personal knowledge of the matters set forth herein based upon my active supervision and participation in all material aspects of this litigation.

2. I am Co-Lead counsel in this matter. I have served as lead or co-lead class counsel in multiple class actions in New York, including *LaFrance v. Ruby Tuesday, Inc.* (5:14-cv-01158) (NDNY January 7, 2016) (Suddaby, J.), *Eldred v. Comforce Corp.* (3:08-cv-1171) (NDNY October 6, 2011)) (Kahn, J.), *Roach v. T.L. Cannon, et. al.* (3:10-cv-00591) (McAvoy, J.) in the Northern District of New York and *Hicks v. T.L. Cannon, et al.* (6:13-cv-06455) (Wolford, J.) in the Western District of New York. These are all employment/labor law class actions. Recently, the above *Roach* and *Hicks* cases were combined and received preliminary settlement approval by Judge McAvoy.

3. I began working on this matter while working for the firm of O'Hara, O'Connell & Ciotoli. The case began with that firm and Faruqi & Faruqi, LLP as co-counsel. Later, three more firms were added, The Sultzer Law Group, P.C., Virginia & Ambinder, LLP, and Leeds Brown Law, P.C. On November 21, 2016, Dennis G. O'Hara, the sole owner and shareholder of the firm, died. I left the firm on September 15, 2017, and brought this matter with me, with the named plaintiffs signing termination of representation and file transfer authorization forms and new retainer agreements with myself and the remaining above listed law firms.

4. I submit this declaration solely for my own individual hours worked on this matter while working at the O'Hara, O'Connell & Ciotoli firm through September 15, 2017, and thereafter on my own. I cannot attest to the hours of other timekeepers at the O'Hara, O'Connell & Ciotoli firm. That firm formally dissolved September 4, 2018. Counsel for the Estate of Dennis G. O'Hara is on notice of this Final Approval Hearing and was advised to submit a declaration from any appropriate person who can attest to that firm's hours besides those of mine.

5. My hourly rates in this matter while working for O'Hara, O'Connell & Ciotoli were \$185.00 per hour. Since then, while working for myself and at my current firm, my rates are \$500.00 per hour, identical to other partner rates in this case. According to time keeping records from O'Hara, O'Connell & Ciotoli that were provided to me soon after I left the firm, I billed 263.50 hours to this matter while there. Since then, I have billed 205.4 hours while working for myself and at my current firm, through November 5, 2018.

6. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

7. Travel time has been billed at a 50% rate.

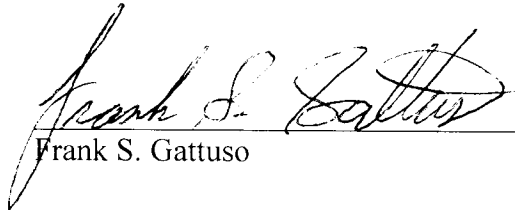
8. In the exercise of billing discretion, I have not included de minimis time and have removed time that I considered duplicative.

9. As of November 5, 2018, the total lodestar based for the 263.50 hours billed while at the O'Hara, O'Connell & Ciotoli firm at a rate of \$185.00 per hour is \$48,747. The total lodestar for the 205.4 hours billed while working for myself and my current firm at a rate of \$500.00 per hour is \$102,250.

10. I have also incurred a total of \$400.00 in hotel expenses related to the prosecution and settlement of this matter. I am not seeking reimbursement of travel and meal expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of November 2018.


Frank S. Gattuso